IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.2156 OF 2007

Mrs. Surekha Shashank Sawant .. Petitioner
v/s.
The Chairman, Mumbai Vegetable Markets,
Vashi, Navi Mumbai and another .. Respondents

Mr. K.R. Jagdale for the petitioner.
Mr. M.S. Topkar for the respondents.

CORAM : F.I. REBELLO &
R.M. SAVANT, JJ.

DATED : 2ND APRIL, 2007

P.C.

Rule. Heard forthwith.

2. The petitioner is approached this court contending that her pay scale has been reduced and respondents are seeking to make recoveries. The Government had sanctioned upgradation of post of Assistant Computer Incharge by the notification of 29th November, 2000. The petitioner came to be appointed to the post of Computer Incharge from 1st April, 2001 and she was drawing salary in the pay scale of Rs. 5500-175-9000. It appears that pursuant to the Government permission, the posts were never upgraded and consequently, by an order of 1.7.2004, the petitioner was reverted to the post of Assistant Accountant. However, she continued to draw pay in the pay scale to the post of Computer Incharge.

3. In the office of the respondent, the hierarchy of promotion is as under:

Assistant Accountant holding the pay scale of Rs. 4000-6000. Next promotional post is Rs.5000-8000. The upgraded post of Assistant Computer Incharge was in the pay scale of Rs.5500-9000. The promotion for the post of Assistant Accountant to Inspector is by seniority. For the three posts of Inspectors, the petitioner's juniors have been promoted.

4. Considering the above, in our opinion, as the petitioner was the senior, even if she was reverted from the post of Computer Incharge, she only could have been reverted to the post of Inspector considering that her juniors had already been appointed to those posts as the petitioner was the senior and found suitable for the appointment to the post of Computer Incharge. This petition is, therefore, to be disposed of by issuing the following directions:

i) No recoveries should be made from the salary of the petitioner for the post of Computer Incharge which she was holding till the order of 1.7.2004.

ii) From 1.7.2004, the petitioner has to be considered for the appointment by promotion to the post of Inspector and she should be given an appointment to the said post. Recovery, if any, can be made considering the pay scale to the post of Inspector to which the petitioner is entitled to.

5. It is pointed out that one of the inspectors is senior to the petitioner, at any rate there are three persons who are junior to the petitioner.

Rule is made absolute accordingly. There shall be no order as to costs.

(F.I. REBELLO, J.)

(R.M. SAVANT, J.)